

**2003 DRAFTING REQUEST****Bill**Received: **11/19/2002**Received By: **phurley**Wanted: **As time permits**

Identical to LRB:

For: **Carol Owens (608) 267-7990**

By/Representing:

This file may be shown to any legislator: **NO**Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - misc**Extra Copies: **MDK**Submit via email: **YES**Requester's email: **Rep.Owens@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Pharmacists

**Instructions:**

Redraft 01s0169

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	phurley 11/19/2002	jdycr 11/20/2002					
/1			pgreensl 11/20/2002		amentkow 11/20/2002	sbasford 12/11/2002 sbasford 12/11/2002	

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

*None  
Needed*

<END>

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Page 2

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FE Sent For:

1	11/20 jld	11/20	11/20				
		PS		<END>			
				PS/cph			

2003 BILL

LRG-0792  
LRBs016/1  
MDK:hmh&jld:pg  
PSY: jld

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2001 ASSEMBLY BILL 307

Reger

1 AN ACT *to renumber and amend* 111.337 (1); and *to create* 111.337 (1) (b) and  
2 450.135 of the statutes; **relating to:** employment discrimination based on  
3 creed and exemption from liability and discipline for pharmacists who refuse  
4 to dispense for abortions, assisted suicides, and euthanasia.

✓  
Insert A → The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 111.337 (1) ✓ of the statutes is renumbered 111.337 (1) (intro.) and  
6 amended to read:

7 111.337 (1) (intro.) Employment discrimination because of creed includes, but  
8 is not limited to, refusing any of the following: ✓

9 (a) Refusing to reasonably accommodate an employee's or prospective  
10 employee's religious observance or practice unless the employer can demonstrate  
11 that the accommodation would pose an undue hardship on the employer's program,  
12 enterprise, or business.

PWF

1           **SECTION 2.** 111.337 (1) (b) of the statutes is created to read:

2           111.337 (1) (b) Discriminating against any pharmacist licensed under ch. 450  
3 by engaging in any of the actions prohibited under s. 111.322 on the basis of the  
4 pharmacist's refusal to dispense a prescribed drug or device because the pharmacist  
5 believes that the drug or device would be used for the purpose of any of the following:

6           1. Causing an abortion, as defined in s. 253.10 (2) (a).

7           2. Causing the death of any person, if the pharmacist consults with the  
8 practitioner who prescribed the drug or device before the pharmacist makes the  
9 refusal.

10          **SECTION 3.** 450.135 of the statutes is created to read:

11          **450.135 Pharmacist's refusal to dispense for abortions, assisted**  
12 **suicides, and euthanasia.** (1) In this section, "abortion" has the meaning given  
13 in s. 253.10 (2) (a).

14          (2) No pharmacist may be required to dispense a prescribed drug or device if  
15 the pharmacist has reason to believe that the drug or device would be used for the  
16 purpose of any of the following:

17          (a) Causing an abortion.

18          (b) Causing the death of any person, if the pharmacist consults with the  
19 practitioner who prescribed the drug or device before the pharmacist makes the  
20 refusal.

21          (3) A pharmacist's refusal to dispense a prescribed drug or device because he  
22 or she has reason to believe that the drug or device would be used for a purpose  
23 described in sub. (2) (a) or (b) may not be the basis for any of the following:

24          (a) A claim for damages against the pharmacist or the pharmacy of the  
25 pharmacist.

1 (b) Disciplinary action by the board<sup>✓</sup> or department against the pharmacist.

2 **SECTION 4. Initial applicability.**

3 (1) This act first applies to refusals made on the effective date of this<sup>✓</sup> subsection.

4 (END)



## 2003 BILL

- 1 **AN ACT to renumber and amend** 111.337 (1); and **to create** 111.337 (1) (b) and  
 2 450.135 of the statutes; **relating to:** employment discrimination based on  
 3 creed and exemption from liability and discipline for pharmacists who refuse  
 4 to dispense for abortions, assisted suicides, and euthanasia.

### *Analysis by the Legislative Reference Bureau*

*Insert*  
 This bill provides that a pharmacist licensed by the Pharmacy Examining Board (board) in the Department of Regulation and Licensing (DRL) may not be required to dispense a prescribed drug or device if the pharmacist has reason to believe that the drug or device would be used for causing an abortion. An "abortion" is defined as the use of an instrument, medicine, drug, or other substance or device with the intent to terminate the pregnancy of a woman known to be pregnant or for whom there is reason to believe that she may be pregnant. In addition, there must be no intent to increase the probability of a live birth, to preserve the life or health of the infant after live birth, or to remove a dead fetus. Also under the bill, a licensed pharmacist may not be required to dispense a drug or device if the pharmacist has reason to believe that the drug or device would be used for causing the death of a person by ~~assisted suicide or euthanasia~~.

The bill also provides that a pharmacist's refusal to dispense a prescribed drug or device because he or she has reason to believe that the drug or device would be used for a purpose described above may not be the basis for a claim for damages against the pharmacist or the pharmacist's pharmacy. Also, such a refusal may not be the basis for disciplinary action by the board or DRL against the pharmacist.

*if the pharmacist consults with the practitioner who prescribed the drug or device*  
*comma*

A, cont.  
**BILL**

This bill expands the definition of employment discrimination based on creed. Under current law, "creed" is defined as a system of religious beliefs, including moral or ethical beliefs about right and wrong, that a person sincerely holds with the strength of traditional religious views. Employment discrimination based on creed is defined to include refusing to accommodate reasonably an employee's or prospective employee's religious observances or practices unless the employer can demonstrate that the accommodation would pose an undue hardship.

The bill also expands the definition of employment discrimination based on creed to include discriminating against a pharmacist on the basis of his or her refusal, based on creed, to dispense a prescribed drug or device that the pharmacist has reason to believe would be used for causing an abortion or causing the death of a person ~~by assisted suicide or euthanasia~~. Under the bill, discrimination includes refusing to hire a pharmacist, terminating a pharmacist's employment, and discriminating against a pharmacist with respect to promotions, compensation, or terms, conditions, or privileges of employment. There is no exception for an employer to show that the pharmacist's refusal poses an undue hardship.

(end ins A)

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1        **SECTION 1.** 111.337 (1) of the statutes is renumbered 111.337 (1) (intro.) and  
2 amended to read:

3        111.337 (1) (intro.) Employment discrimination because of creed includes, but  
4 is not limited to, ~~refusing any of the following:~~

5        (a) Refusing to reasonably accommodate an employee's or prospective  
6 employee's religious observance or practice unless the employer can demonstrate  
7 that the accommodation would pose an undue hardship on the employer's program,  
8 enterprise, or business.

9        **SECTION 2.** 111.337 (1) (b) of the statutes is created to read:

10        111.337 (1) (b) Discriminating against any pharmacist licensed under ch. 450  
11 by engaging in any of the actions prohibited under s. 111.322 on the basis of the  
12 pharmacist's refusal to dispense a prescribed drug or device because the pharmacist  
13 believes that the drug or device would be used for the purpose of any of the following:

**Mentkowski, Annie**

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**From:** Dicks, Jacque  
**Sent:** Tuesday, December 10, 2002 1:28 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB-0792/1 Topic: Pharmacists

It has been requested by <Dicks, Jacque> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-0792/1 Topic: Pharmacists